

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Anthony E. Ntamere,

Case No. 22-cv-02682 (KMM/JFD)

Plaintiff,

v.

**ORDER**

Amerihealth Administrators Inc., et. al,

Defendants.

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On November 14, 2023, the Court entered an Order granting the Motion to Dismiss filed by Defendants Amerihealth Administrators Inc., John Clayton, Independence Blue Cross of PA, Jeffrey Kearns, Michele Schumacher, and Tashima Waller. [Dkt. 59 (granting Mot. to Dismiss at Dkt. 14).] In that Order, the Court directed the Clerk of Court to enter Judgment, which the Clerk promptly did. [*Id.* at 23; Judgment, Dkt. 60.] However, the Court’s direction of the entry of judgment was premature because, in a separate Order issued on November 14th, the Court granted a request by Plaintiff Anthony E. Ntamere to file an amended pleading within 30 days to add as named Defendants: Minnesota Attorney General Keith Ellison, Minnesota Department of Human Rights (“MDHR”) Commissioner Rebecca Lucero, and MDHR Lead Investigator Tom Bernette. [Dkt. 58 at 6.]

Under Fed. R. Civ. P. 54(b), in a case involving multiple claims and multiple parties, like this one, the Court should only enter a final judgment as to one or more, but fewer than all, claims or parties when it “expressly determines that there is no just reason

for delay.” The Court made no such finding in this case and has before it no basis in the record to reach such a conclusion. Accordingly, the Judgment at docket entry 60 is hereby vacated.<sup>1</sup>

On December 4, 2023, Mr. Ntamere filed a Motion to Amend the First Amended Complaint consistent with the Court’s November 14th Order permitting him to add certain named Defendants. [Pl.’s Mot. to Am., Dkt. 61.] Attached to Mr. Ntamere’s Complaint is a proposed Second Amended Complaint and a redlined version of the same that demonstrates Mr. Ntamere’s substantial compliance with the Court’s instructions regarding the allowed amendment.<sup>2</sup> [Dkt. 61-1; Dkt. 61-2.] Mr. Ntamere’s motion to amend is, therefore, granted, and the Court will treat the Second Amended Complaint attached to the motion at docket entry 61-1 as the operative pleading in this matter. The Clerk of Court is directed to update the electronic docket to include the following Defendants in the case caption: Minnesota Attorney General Keith Ellison, MDHR Commissioner Rebecca Lucero, and MDHR Lead Investigator Tom Bernette. In addition, the Clerk of Court is directed to list Defendant Minnesota Department of Human Rights as a “Terminated” defendant as of November 14, 2023.

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<sup>1</sup> This Order does not alter any of the Court’s findings or conclusions in the November 14th Order granting the Motion to Dismiss and does not revive any of the claims against the Defendants that have already been dismissed. Instead, this Order simply clarifies that the instruction to enter judgment in this matter was premature and ensures that the Court will enter judgment upon its resolution of all claims against all Defendants that Plaintiff has pursued in this litigation.

<sup>2</sup> Mr. Ntamere failed to comply in one small respect with the Court’s instruction to “remove MDHR as a defendant” from his newly amended pleading. [Dkt. 58 at 6 ¶ 4.]

Because Mr. Ntamere is proceeding *in forma pauperis* in this matter and his Second Amended Complaint now asserts claims against Attorney General Ellison, MDHR Commissioner Lucero, and MDHR Lead Investigator Bernette, the Court finds that the Second Amended Complaint should be screened pursuant to 28 U.S.C. § 1915(e)(2)(B) prior to directing that service be made on these defendants. As Mr. Ntamere has previously been advised,<sup>3</sup> permission to proceed with claims *in forma pauperis* may be denied, and an action dismissed, when an IFP applicant has filed a complaint that fails to state a claim on which relief may be granted. *Atkinson v. Bohn*, 91 F.3d 1127, 1128 (8th Cir. 1996). If the Court determines that Mr. Ntamere's Second Amended Complaint presents a sufficiently plausible claim for relief that it survives review under § 1915(e)(2)(B), the Court will issue an order to ensure that the recently added defendants are properly served. If the Court determines that Mr. Ntamere's Second Amended Complaint does not present a sufficiently plausible claim for relief, it will issue an order to that effect.

Finally, on December 10, 2023, Mr. Ntamere filed a letter asking the Court to provide information regarding its Order of dismissal. [Dkt. 62.] Mr. Ntamere's letter request is denied.

Based on the foregoing discussion, **IT IS HEREBY ORDERED THAT:**

1. The Judgment [Dkt. 60] is **VACATED** as premature.
2. Plaintiff's Motion to Amend [Dkt. 61] is **GRANTED**. The Second Amended Complaint at docket entry 61-1 is deemed the operative pleading.

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<sup>3</sup> See Dkt. 8 at 5.

3. The Clerk of Court is directed to update the electronic docket to include the following Defendants in the case caption: Minnesota Attorney General Keith Ellison, MDHR Commissioner Rebecca Lucero, and MDHR Lead Investigator Tom Bernette.
4. The Clerk of Court is directed to update the electronic docket so that the caption shows that Defendant Minnesota Department of Human Rights was “Terminated” as of November 14, 2023.
5. The Second Amended Complaint [Dkt. 61-1] will be subject to review pursuant to 28 U.S.C. § 1915(e)(2)(B) with respect to Mr. Ntamere’s assertion of claims against the newly added Defendants.
6. Mr. Ntamere’s letter request [Dkt. 62] is **DENIED**.

Date: December 13, 2023

*s/Katherine Menendez*

Katherine Menendez

United States District Judge